

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

IN RE:	)	Chapter 11
	)	
CIRCUIT CITY STORES, INC., <u>et al.</u> ,	)	Case No. 08-35653 (KRH)
	)	
Debtors. <sup>1</sup>	)	Jointly Administered
	)	
_____	)	

**MARICOPA COUNTY TREASURER’S OBJECTION TO FIRST AMENDED  
JOINT PLAN OF LIQUIDATION OF CIRCUIT CITY STORES, INC. AND ITS  
AFFILIATED DEBTORS AND DEBTORS IN POSSESSION AND ITS OFFICIAL  
COMMITTEE OF CREDITORS HOLDING GENERAL UNSECURED CLAIMS**  
[Dkt. #5124]

Maricopa County Treasurer (“Maricopa County”) a secured tax lien creditor, by and through counsel, Rand L. Gelber, hereby objects to Debtors’ First Amended Joint Plan of Liquidation of Circuit City Stores, Inc., (“First Amended Joint Plan”) and states as follows:

**PRELIMINARY STATEMENT**

1. Maricopa County’s tax claim is secured under A.R.S. § 42-17153. Maricopa County’s lien attached to Debtors’ personal property located in Maricopa County, Arizona.
2. A.R.S. § 42-17153 makes Maricopa County’s secured lien “prior and superior to all other liens and encumbrances on the property.”

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<sup>1</sup> The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Circuit City Stores, Inc. (3875), Circuit City Stores West Coast, Inc. (0785), InterTAN, Inc. (0875), Ventoux International, Inc. (1838), Circuit City Company, LLC (5170), CC Aviation, LLC (0841), DD Distribution Company of Virginia, Inc. (2821), Circuit City Properties, LLC (3353), Kinzer Technology, LLC (2157), Abbott Advertising Agency, Inc. (4659), Patapsco Designs, Inc. (6796), Sky Venture Corp. (0311), Prahs, Inc. (n/a), XSStuff, LLC (9263), Mayland MN, LLC (6116), Courcheval, LLC (n/a), Orbyx Electronics, LLC (3360), and Circuit City Stores PR, LLC (5512). The address for Circuit City Stores West Coast, Inc. is 9250 Sheridan Boulevard, Westminster, Colorado 80031. For all other Debtors, the address is 9950 Mayland Drive, Richmond, Virginia 23233.

3. Maricopa County's secured tax claim bears interest at the statutory rate of 16% per annum under 11 U.S.C. § 511 and A.R.S. § 42-18053.

4. Under A.R.S. § 42-19107, "It is unlawful for the owner, a lienholder, a conditional vendor or any other person to knowingly sell or transfer personal property or remove it from its location until the taxes on the property are paid."

5. Maricopa County filed its Proof of Claim No. 1860 on December 22, 2008 for joint debtor Circuit City Stores West Coast, Inc. in the amount of \$29,685.36 for secured unpaid pre-petition personal property taxes owing for tax year 2008.

6. Maricopa County's secured tax claim has continued to accrue interest at the statutory rate of 16% per annum and the current balance due through November 30, 2009 is \$32,455.72. The personal property parcels and interest accrual are more specifically itemized follows:

Parcel No.	Tax Year	Assessed Tax	Taxes Paid	Accrued Interest	Total Due Through 11/30/09
924-07-423 Store #437 8929 E. Indian Bend Rd., Scottsdale, AZ	2008	\$ 549.32	274.66	25.63	300.09
924-24-031 Store #435 9801 Metro Parkway E. Phoenix, AZ	2008	1,387.20	693.60	64.73	758.33
925-29-945 Store #436 1530 W. Southern Ave. Mesa, AZ	2008	972.88	486.44	45.40	531.84
925-31-012 Store #441 10140 W. McDowell Rd. Avondale, AZ	2008	8,333.58	4,166.79	388.89	4,555.68
936-27-154 Store #3337 1515 S. Power Rd. Mesa, AZ	2008	2,308.48	1,154.24	107.73	1,261.97
938-33-152 Store #3362 7645 W. Bell Rd. Peoria, AZ	2008	3,200.84	1,600.42	149.37	1,749.79
948-01-897 Store #3330	2008	6,583.22	3,291.61	307.21	3,598.82

Parcel No.	Tax Year	Assessed Tax	Taxes Paid	Accrued Interest	Total Due Through 11/30/09
3456 W. Chandler Blvd. Chandler, AZ					
948-54-012 Store #3341 7000 E. Mayo Blv. Phoenix, AZ	2008	7,331.46	3,665.73	342.13	4,007.86
948-62-613 Store #3426 1670 E. Camelback Rd. Phoenix, AZ	2008	7,853.92	3,926.96	366.51	4,293.47
949-83-136 Store #3558 2501 W. Happy Valley Rd. Phoenix, AZ	2008	9,113.26	4,556.63	425.27	4,981.90
949-90-865 Store #3580 2817 S. Market Gilbert, AZ	2008	7,066.66	3,533.33	329.77	3,863.10
990-97-654 Store #3760 15433 W. McDowell Goodyear, AZ	2008	4,669.90	2,334.95	217.92	2,552.87
<b>TOTAL</b>		<b>\$59,370.72</b>	<b>29,685.36</b>	<b>2,770.56</b>	<b>\$ 32,455.72</b>

**OBJECTION**

7. Maricopa County objects to the First Amended Joint Plan as it is unclear whether its claim will be treated as a miscellaneous secured claim (Class 2) or whether it will be treated as priority tax claim.

8. The First Amended Joint Plan fails to provide for interest on Maricopa County's secured claims. As noted above, Maricopa County must be paid 16% per annum on its priming tax lien. *See* 11 U.S.C. § 511 and A.R.S. § 42-18053.

9. Maricopa County requests that the following replace the treatment proposed by Debtors:

The pre-petition secured tax claim of Maricopa County that is currently due and owing will be paid in full on the Effective Date, together with accrued and accruing post-petition interest at the statutory rate of 16% per annum (the "Statutory Rate"). To the extent the tax claim is not paid in full on the Effective Date, Debtor shall make regular

installment payments in accordance with 11 U.S.C. § 1129(a)(9)(D), over a period no longer than five years commencing with the petition date with interest paid at the Statutory Rate until the claim is paid in full.

Based on the foregoing, Maricopa County respectfully requests that the Court deny confirmation of the First Amended Joint Plan of Circuit City Stores, Inc., *et al* and that it be amended to provide that Maricopa County's secured claim, currently due in the amount of \$32,455.72, be (1) paid in full with accrued and accruing interest on the Effective Date or (2) paid in installments over a period no longer than five years from the petition date along with post-petition accruing interest at the statutory rate of 16% per annum.

MARICOPA COUNTY TREASURER

By Counsel

By /s/ Rand L. Gelber

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**CERTIFICATE OF SERVICE**

I hereby certify under penalty of perjury that on the 11<sup>th</sup> day of November, 2009, the foregoing was served on all the parties – See below

by regular first class mail and/or through the Court's ECF system on the Core Group Service List attached hereto as Exhibit A and through the Court's ECF System on all of the parties on the Rule 2002 List attached hereto as Exhibit B.

**The Debtors**

If by first-class mail:  
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**Counsel For The Debtors**

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**The United States Trustee**  
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(Attn: Robert B. Van Arsdale)

And

Honorable Kevin Huennkens  
United States Bankruptcy Judge  
United States Bankruptcy Court  
701 E. Broad Street  
Richmond, VA 23219-1888

/s/ Rand L. Gelber \_\_\_\_\_  
Rand L. Gelber